



JACK SHREVE
PUBLIC COUNSEL

STATE OF FLORIDA
OFFICE OF THE PUBLIC COUNSEL

c/o The Florida Legislature
111 West Madison St.
Room 812
Tallahassee, Florida 32399-1400
850-488-9330

May 12, 1999

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Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II
445 12th Street, SW
Suite TW-A325
Washington, DC 20554

Re: Petition by the Florida Public Service Commission
for Authority to Implement Number Conservation
Measures

File No. NSD-L-99-33

Re: Implementation of the Local Competition Provisions
of the Telecommunications Act of 1996

CC Docket No. 96-98

Dear Ms. Salas:

Enclosed please find an original and four copies of Comments by the Citizens of
Florida.

Sincerely yours,

Charles J. Beck
Charles J. Beck
Deputy Public Counsel

Enclosure

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**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

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MAY 13 1999

In re: Petition by the Florida Public
Service Commission for Authority
to Implement Number Conservation
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Implementation of the Local
Competition Provisions of the
Telecommunications Act of 1996)
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CC Docket No. 96-98

COMMENTS BY THE CITIZENS OF FLORIDA

The Citizens of Florida, by and through Jack Shreve, Florida Public Counsel, file these comments in support of the petition filed by the Florida Public Service Commission seeking authority to implement number conservation measures in Florida.

Statutory Authority of the Public Counsel

Section 350.0611, Florida Statutes (1998) authorizes the Public Counsel to provide legal representation for the people of the state in proceedings before the Florida Public Service Commission. In connection with these duties, the Public Counsel may appear in the name of the state or its citizens before other state agencies, federal agencies, and state and federal courts. The Public Counsel is completely independent of the Florida Public Service Commission and may, in state proceedings, appeal decisions of the Florida

Public Service Commission in telecommunications matters to the Florida Supreme Court.

Background

Section 251(e)(1) of the Telecommunications Act of 1996 (the Act) states that

"The Commission shall create or designate one or more impartial entities to administer telecommunications numbering and to make such numbers available on an equitable basis. The Commission shall have exclusive jurisdiction over those portions of the North American Numbering Plan that pertain to the United States. Nothing in this paragraph shall preclude the Commission from delegating to state commissions or other entities all or any portion of such jurisdiction."

In the *Local Competition Second Report and Order*¹ the Federal Communications Commission (Commission) delegated only very limited authority to state commissions, notwithstanding the broad statutory basis to delegate "all or any portion" of the Commission's jurisdiction in this area to state commissions. The Commission allowed states to implement the form of area code relief, such as geographic splits, boundary realignments, and area code overlays, while prohibiting states from taking effective action to address the root causes of area code proliferation.

The *Pennsylvania Order*² expanded state authority slightly. While allowing the states to experiment with voluntary number pooling trials, the Commission still prohibited

¹ *Second Report and Order and Memorandum Opinion and Order*, FCC 96-333, released August 8, 1996.

² *Memorandum Opinion and Order and Order on Reconsideration*, FCC 98-288, released September 28, 1998.

states from conducting mandatory number pooling trials. The Commission also delegated authority to state commissions to order NXX code rationing after the state commission had decided on a specific form of area code relief and had established an implementation date. But the Commission held out the following additional possibility for state commissions:

"We therefore encourage such state commissions, prior to the release of any order implementing a number conservation stand or number pooling trial, to request from the Commission an additional, limited delegation of authority to implement these proposed conservation methods, comparable to the authority we are granting to Illinois in this Order.³

New York, Massachusetts, Maine, Florida and California now have petitions pending before the Commission seeking far greater authority to address the proliferation of area codes. Collectively these petitions show an urgent need for action that has so far been hampered by a reluctance from this Commission to delegate sufficient authority to the states.

Area Code Proliferation in Florida

Since 1994 the number of area codes in Florida has tripled from four area codes to twelve. Yet even with twelve area codes, a majority of area codes are presently in jeopardy. This situation can no longer be rationalized by blaming the mushrooming number of codes on second telephone lines, fax lines, and cellular phones. The public

³ *Pennsylvania Order*, ¶31

knows better.⁴ The highly inefficient assignment of available telephone numbers in blocks of 10,000 largely drives the creation of more and more area codes. In particular, allocation of telephone numbers in blocks of 10,000 to new entrants dries up the availability of telephone numbers even when most of the existing numbers aren't used.

The national estimated CLEC telephone number utilization fill rate of 5.7% pales in comparison to the 35.6% fill rate for ILECs, the 42.8% fill rate for CMRS providers, or the 52.6% fill rate for paging companies.⁵ With the number of CLECs in Florida at 268⁶ and climbing, we are in a particularly grave situation in this state.

One immediate impact of the area code crisis in Florida is that the industry is looking at splitting up a number of local calling areas with new area codes. A 561 and 954

⁴ See *Petition of the California Public Utilities Commission and the People of the state of California for Delegation of Additional Authority*, CC Docket No. 96-98 and NSD File L-97-42 dated April 23, 1999, at page 3 ("public ire about the increasing number of area codes is mounting. Articles appear in the press, and stories run on broadcast media on a weekly if not daily basis. It is now public knowledge that numbers are being allocated inefficiently, with every carrier receiving a block of 10,000 numbers, regardless of how many customers the carrier has or projects it will have in the foreseeable future."); *FCC Looks to Avert New Phone Number Crises*, <http://cnn.com/TECH/computing/9904/19/fccphone.idg/index.html>, April 19, 1999 ("Both FCC officials and outside experts say the reason why carriers keep carving up new area codes -- 47 scheduled across the country in 1999 alone -- is not that there's too much demand for phone numbers but that the system itself is woefully inefficient.").

⁵ *Number Utilization Forecast and Trends* dated February 18, 1999, prepared by Lockheed Martin CIS North American Numbering Plan Administrator.

⁶ An updated list of CLECs in Florida may be found at <http://www2.scri.net/psc/mcd/TALX.html>. CLECs are called alternative local exchange companies, or ALECs, in Florida, consistent with the definition found in section 364.02, Florida Statutes (1998).

NPA relief industry meeting scheduled for May 19, 1999 will review alternatives for imposing more overlay area codes or dividing local calling areas into new area codes in heavily populated areas surrounding Palm Beach and Ft. Lauderdale in Southeast Florida. Both choices are bad for consumers. Better methods of assigning codes to new entrants could have drastically slowed down or eliminated the need to create new area codes.

Customers also demand to know why area codes created in the last few years are already in jeopardy. For example, approximately one month ago the Florida Public Service Commission held two days of public hearings in Southwest Florida to address the exhaustion of the 941 area code. According to Manatee County Commission Chairman Stan Stephens:

"Manatee County's area code was changed three years ago from 813 to 941. Another area code change means changing our telephone at work systems, our paging programs, our enhanced 911 data base and processing all telephone reference material and our 911 operational software. This change causes significant confusion to the county's numerous working and retired citizens, and adds a considerable amount of cost and expense to our emergency management services. The impact of an area code change is only amplified when the change occurs in a three year period." 941 area code hearings held in Sarasota, Florida on April 8, 1999, Tr. 54-55.

Likewise, according to realtor Charlene Timothy:

"I speak to you today as a businesswoman in a very busy world. And we've gone through one area code change, which was sluggish. We reprogrammed phones, pagers, stationery, yard signs, car -- you know, everything, and the computer modems, etc.

We made the change with the understanding that the problem had been solved or resolved. We are now facing

another change within this four-year period with the possibility of another change two or three years down the pike... To be changing every two to four years is not fair to the consumer or the resident." 941 area code hearings held in Ft. Myers, Florida on April 9, 1999, Tr. 443-448.

These comments are typical of the response by the public to the continued proliferation of area codes.

The fundamental problem facing state utility commissions is that the Commission has delegated responsibility to the states to fashion area code relief plans without also delegating sufficient authority to address the causes for expanding area codes. Florida and other states are ready to do whatever they can to bring about remedies to this crisis if the Commission will allow the states additional authority.

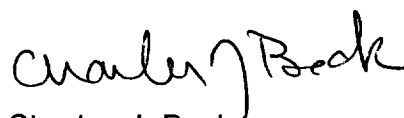
Conclusion

The Florida Public Service Commission pledged that any action it would take under delegated authority would be consistent with the policies of the Federal Communications Commission by ensuring that number resources would be made available in an equitable, efficient, and timely basis to all carriers. They further assured the Commission that their efforts would not unduly favor or disfavor any particular segment or group of telecommunications consumers, nor would their efforts unduly favor one telecommunications technology over another. With these assurances, the Commission should grant the petition of the Florida Public Service Commission and allow the states to

start taking measures to avert a further worsening of the area code crisis we are experiencing.

Respectfully submitted,

JACK SHREVE
Public Counsel
Florida Bar No. 73622

A handwritten signature in black ink, appearing to read "Charles J. Beck". The signature is fluid and cursive, with the first name "Charles" and last name "Beck" clearly distinguishable.

Charles J. Beck
Deputy Public Counsel
Florida Bar No. 217281

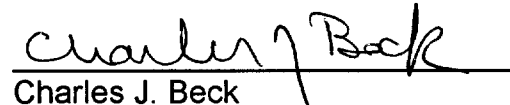
Office of the Public Counsel
c/o The Florida Legislature
111 West Madison Street
812 Claude Pepper Building
Tallahassee, Florida 32399-1400

(850) 488-9330
Attorneys for the Citizens
of the State of Florida

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I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S.

Mail to the following parties on this 12th day of May, 1999.


Charles J. Beck

Magalie Roman Salas
Commission Secretary
Federal Communications Commission
Portals II
445 12th Street, SW
Suite TW-A325
Washington, D.C. 20554

Al McCloud
Federal Communications Commission
Network Services Division
Portals II
445 12th Street, S.W.
Room 6A-320
Washington, D.C. 20554

International Transcription Service
1231 20th Street, N.W.
Washington, DC 20036

Cynthia B. Miller
Division of Appeals
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Sally Simmons
Division of Communications
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850

Philip F. McClelland
Joel H. Cheskis
Office of Consumer Advocate
555 Walnut Street 5th Floor, Forum
Place
Harrisburg, PA 17101-1923

Helen M. Mickiewicz
California Public Utilities Commission
505 Van Ness Ave.
San Francisco, CA 94102

E. Barclay Jackson
New Hampshire Public Utilities
Commission
8 Old Suncook Road
Concord, NH 03301-7319

Lawrence G. Malone
New York Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Karlen J. Reed
Department of Telecommunications &
Energy
100 Cambridge Street, 12th Floor
Boston, MA 02202

Trina M. Bragdon
Maine Public Utilities Commission
242 State Street
Augusta, ME 04333

David E. Screven
Pennsylvania Public Utilities
Commission
P.O. Box 3265
Harrisburg, PA 17105

Henry G. Hultquist
MCI Worldcom
1801 Pennsylvania Avenue, NW
Washington, DC 20006

Susan M Eid
Mediaone Group, Inc.
1919 Pennsylvania Avenue, N.W.
Washington, DC 20006-3404

Michael R. Romano
Swidler Berlin Shereff Friedman, LLP
2000 K Street, N.W., Suite 300
Washington, DC 20007

Mary McDermott
Personal Communications Industry
Association
500 Montgomery Street, Suite 700
Alexandria, VA 22314-1561

Robert S. Foosaner
Nextel Communications, Inc.
1450 G Street, N.W.
Suite 425
Washington, DC 20005

Michael F. Altschul
Cellular Telecommunications Industry
Association
1250 Connecticut Avenue, N.W.
Suite 800
Washington, DC